



**AZ POST**  
***INTEGRITY BULLETIN***  
***Volume No. 4***



The Arizona Peace Officer Standards and Training Board (AZ POST) has the legislative mandate to establish and enforce the physical, mental, and moral fitness standards for all peace officers in the state. This charge, to protect the public by overseeing the integrity of Arizona's law enforcement officers, is met by reviewing cases and taking action against the certification of individuals who violate the AZ POST Rules. The following is a summary of the actions taken by the Arizona Peace Officer Standards and Training Board at its **May 24, 2000** public meeting. These actions are not precedent setting, in the sense that similar cases will end with the same result, because each case is considered on its individual facts and circumstances. Having said that, this Bulletin is being published to provide insight into the Board's position on various types of officer misconduct. As always, the Compliance Specialist for your agency is available to discuss any matter and to assist you with any questions you might have. The "*Editor Notes*" and the "Frequently Asked Questions" section are historical observations and insights for training and discussion purposes only.

**CASE NO. 1**

**SUSPECTED BRIBERY/LYING**

Reports indicated that Deputy Sparrow arrested a woman for shoplifting. The woman later fled his custody. The Deputy caught her and brought her back to the station. During separate interviews, both agreed that she asked Deputy Sparrow what she could do for him in return for forgetting the escape charge and going with the shoplifting alone. The woman claims, (and passed a polygraph), that the deputy said, "For what, this?..." and fondled her breasts under her clothing, then fondled her buttocks and touched her rectum. Deputy Sparrow denied any inappropriate touching. He contended that the woman's pants had fallen down below her hips and her blouse became unbuttoned as a result of her escape and his pursuit. The Board revoked Sparrow's certification for the behavior and for providing false and misleading information during the investigation.

**CASE NO. 2**

**HIT & RUN - FIXTURE**

Officer Finch was off duty and operating his personal vehicle when he ran off the road, striking a decorative fence located in a private yard. Officer Finch failed to take steps to locate the owner of the fence, and in fact, left the scene when he found out the police had been called. He was charged with the class 3 misdemeanor of striking the fixture, criminal damage and DUI; however, the other two charges were dismissed when he pled guilty to the criminal damage. POST had no information indicating that Officer Finch was untruthful when confronted about the misconduct. The Board suspended his certification for a period of one year from the date of the May 24, 2000 Board Meeting.

**CASE NO. 3****MALFEASANCE/LYING**

Officer Jay had a son who had been implicated in a burglary from a neighbor's home. An Administrative Law Judge from the Office of Administrative Hearings found that the evidence supported the following allegations of fact: Officer Jay provided false or misleading information to police officers to protect his son from possible criminal prosecution. Officer Jay mishandled or tampered with recovered stolen property he knew to be evidence in the burglary case. Officer Jay lied on the witness stand at his son's trial when he denied having talked with his son about the case. He also provided false information to internal affairs' investigators looking into the allegations. The Board revoked his peace officer certification.

**CASE NO. 4****SEXUAL MISCONDUCT**

Officer Quail made a traffic stop on a car for having no license plate and found the driver to be a nice looking woman wearing a sexy dress that buttoned all the way down the front. Her cleavage and thighs were exposed. She made implicit sexual invitations for Officer Quail to touch her. After he asked her whether she had any weapons on her and she said "no," he asked, "Do you mind if I check?" She unbuttoned the dress down to her navel and he fondled her breasts. She pulled her dress up to further expose her thighs and opened her legs. Officer Quail then put his hand between her legs and rubbed her pubic area. She later stated that she felt flattered, but awkward, and consistently stated all actions were consensual. Officer Quail went ahead and issued her citations for no license plate and driving on a suspended license. She told another officer she knew, about the contact.

During the internal investigation, Officer Quail momentarily denied touching the woman's breasts or crotch area, but came clean within a few moments of being told that POST is decertifying officers for lying. From that brief moment of denial on, Officer Quail was scrupulously forthright about his misconduct and took full responsibility for it, including resignation from the department. The Board voted to suspend Officer Quail's certification for one year beginning with the day of the vote.

*Editor's note: This officer was supported at the POST meeting by some articulate and professional fellow officers, one of whom made the point that by not revoking Quail's certification, POST will provide officers with an incentive to be truthful, even where their misconduct is fairly egregious.*

**CASE NO. 5****EXCESSIVE FORCE**

Sgt. Owl assaulted a prisoner whose hands and legs were fully restrained. The prisoner had been arrested and was in custody. The paramedics had been called to check out injuries the prisoner received when he was taken to the ground during his arrest. The prisoner began kicking the cell door. Sgt. Owl and another officer applied a "tarp" cord, attaching the prisoner's ankles to his handcuffs behind his back. The prisoner continued to spit at the officer despite being told to quit. Sgt. Owl then struck the prisoner three times with his fist. The sergeant was convicted of assault. He sent a letter asking the Board to accept his voluntary relinquishment of certification. He would not agree, however, that the relinquishment would be permanent. The Board declined his relinquishment offer and revoked his certification.

**CASE NO. 6****ALLEGED DRUG USE**

Officer Pigeon's former girlfriend approached internal affairs and reported that Pigeon was a marijuana smoker. She said she had smoked it with him on several occasions. She also provided the agency with a jacket owned by the department which he had taken. The agency terminated him. Officer Pigeon never responded to the POST Complaint accusing him of marijuana use, theft of the jacket and lying to internal affairs. The Board revoked his certification.

#### **CASE NO. 7**

#### **LYING**

Officer Dove reported to her supervisor that her patrol vehicle had been the subject of a hit and run accident resulting in minor damage to the passenger side. She followed this up with a departmental report attesting to the hit and run. The department determined that the damage to the vehicle was not consistent with her report and asked her about it. She again denied any knowledge of how it became damaged. Investigators located damage on a block wall consistent with the vehicle damage and confronted Officer Dove with the facts. She then admitted that she hit the wall, lied about it, and had filed the false report. Her department terminated her and the Board revoked her certification.

*Editor's note: There were several other cases presented to the Board for action during the May meeting, but all of them were very similar to cases previously discussed in the Integrity Bulletin. The repeated discussion of the same Rule violations has diminishing value, therefore they have not been included.*

### **FREQUENTLY ASKED QUESTIONS CONCERNING AZ POST**

**"How can the AZ POST Board make a Finding of Fact which is different than our Merit Council?"**

A lengthy letter was received expressing astonishment that AZ POST found the facts to be different from the facts found by a local civil service board. The letter called into question the factual nature of the Bulletin because the "facts" described didn't match what the author of the letter believed were the "facts." It is important to remember that the Board is an independent Fact Finding body and they may not come to the same conclusions as another board or tribunal. In this case, the Board had considerably more information than the Merit Board, i.e. additional interviews and significant findings from a polygraph examination. Therefore, the AZ POST Board found a different set of facts and came to a slightly different conclusion than the Merit Board, but significant sanctions were levied by the Board, none the less.

The Board is an independent body and all parties, officers/agencies/attorneys/observers, must remember that, and not speculate or "bet" on what the Board may do or not do. The "facts" of a case, as reported in the media, or discussed around the "water cooler," will probably not be the "facts" which can be proven and brought to the Board. The AZ POST Rules and the Administrative Procedures Act provide for a very extensive hearing and fact finding process to insure accuracy and fairness. It is the outcome of that process upon which the Board acts.

“How is “Hashish” dealt with within AZ POST Rules and why is it different from “Marijuana?”

AZ POST Rules uses the legislative definitions for the terms, “marijuana,” “dangerous drugs,” and “narcotics,” in order to be consistent. “Hashish” is defined as “cannabis” and “cannabis” is classified as a “Narcotic Drug.” Therefore, under AZ POST Rules, the “7 year drug free period and 5 lifetime use maximum” applies. Some confusion arises because the possession of “hashish” is sometimes charged differently from other narcotic drugs, and it is sometimes seen as synonymous with marijuana. Staff has reviewed the Personal History Form and will be making adjustments to limit future confusion.

“What about Steroid use? What are the time periods associated with it?”

Steroids became “dangerous drugs” on January 1, 1994. Between 1989 and 1994, steroid use was illegal, but not because it was either a “narcotic” or “dangerous drug.” Therefore, AZ POST views the use of steroids as follows:

- ▶ Use before 1989 is irrelevant to the AZ POST Drug Rules.
- ▶ Use between 1989 and 1994 was unlawful conduct if done without a prescription, and should be considered during the background investigation, particularly if the person was a peace officer during that time.
- ▶ All use since 1994 is seen as the use of a “dangerous drug” and the 7 year “no use” window and the 5 lifetime use limit applies, and none as a peace officer.